

### REMARKS

In response to the Office Action mailed August 20, 2008, Applicants respectfully request reconsideration. Claims 1-5, 8-19, 21-32, 34-42, and 44 were previously pending in this application. By this amendment, Applicants are canceling claims 14, 27, and 40 without prejudice or disclaimer. Claims 1, 15, 28, and 41 have been amended. New claims 45-47 are added. As a result, claims 1-5, 8-13, 15-19, 21-26, 28-32, 34-39, 41, 42, and 44-47 are pending for examination, with claims 1, 15 and 28 being independent claims. No new matter has been added.

#### Telephone Conference with the Examiner

Applicants' representative appreciates the courtesies extended by Examiner Dunn and his supervisor in granting and conducting a telephone interview on November 12, 2008. Applicants were represented at the interview by Ed Walsh. Technology Specialist Zachary Thomas also participated in the call. During the telephone interview, Applicants' representative presented to the Examiner a general overview of Applicants' invention as recited in the claims. The Melpignano reference was also discussed.

The Examiner indicated that the claims as amended distinguish over the cited references but indicated a further search may be required.

The remarks and amendments contained herein may serve as a further summary of the interview.

#### Rejections under 35 U.S.C. §102

The Examiner rejected claims 1-5, 8-14, 28-32, and 34-40 under 35 U.S.C. §102(e), as being anticipated by U.S. Patent Application No. 2006/0084417 (Melpignano).

#### Independent Claim 1

Claim 1, as amended, is directed to a computing system supporting network selection based upon network information spanning multiple communication media. Claim 1 recites "a scanning engine, associated with at least one network interface among the set of network interfaces, for adaptively controlling a scanning delay period based at least upon results of a plurality of previous

scans.” This amendment is supported by the specification, for example, at FIG. 11 and paragraph 105 through 113.

This amendment clearly distinguishes over the cited reference. Melpignano does not teach or suggest “a scanning engine, associated with at least one network interface among the set of network interfaces, for ***adaptively controlling a scanning delay period based at least upon results of a plurality of previous scans.***” Accordingly, claim 1 patentably distinguishes over the prior art of record, so that the rejection of claim 1 under 35 U.S.C. §102 should be withdrawn.

Claims 2-5, 8-13, 41, 42, and 45-47 depend from claim 1, incorporate all of its limits, and should be allowed for at least the same reasons. Though Applicants do not necessarily concur with the rejections, Applicants believe it is unnecessary to separately address the rejections of the dependent claims. However, the dependent claims also add limitations that further distinguish over the references, and Applicant reserves the right to argue further for the patentability of these claims.

#### Independent Claim 28

Claim 28 as amended is directed to a computer-readable medium including computer-executable instructions for facilitating selecting a network and interface combination. Claim 28 recites “initiating network scanning for a designated one or more of the set of network interfaces based at least in part upon ***a scanning algorithm that adaptively changes a scanning frequency based at least upon results of a plurality of previous scans.***”

Melpignano does not teach or suggest this limitation. Accordingly, claim 28 patentably distinguishes over the prior art of record, so that the rejection of claim 28 under 35 U.S.C. §102 should be withdrawn.

Claims 29-32, 34-39, and 44 depend from claim 28, incorporate all of its limits, and should be allowed for at least the same reasons. Though Applicants do not necessarily concur with the rejections, Applicants believe it is unnecessary to separately address the rejections of the dependent claims. However, the dependent claims also add limitations that further distinguish over the references, and Applicant reserves the right to argue further for the patentability of these claims.

#### Rejections under 35 U.S.C. §103

The Examiner rejected claims 15-19, 21-27, and 41-42 under 35 U.S.C. §103(a), as being unpatentable over Melpignano in view of U.S. Patent Application No. 2004/0116140 (Babbar).

### Independent Claim 15

Claim 15 as amended is directed to a method for selecting a network and interface combination. Claim 15 recites “initiating network scanning for a designated one or more of the set of network interfaces based at least in part upon *a scanning algorithm that adaptively changes a scanning frequency based at least upon results of a plurality of previous scans.*”

Neither Melpignano nor Babbar teaches or suggests this limitation. Accordingly, claim 15 patentably distinguishes over the prior art of record, so that the rejection of claim 15 under 35 U.S.C. §102 should be withdrawn.

Claims 16-19 and 21-26 depend from claim 15, incorporate all of its limits, and should be allowed for at least the same reasons. Though Applicants do not necessarily concur with the rejections, Applicants believe it is unnecessary to separately address the rejections of the dependent claims. However, the dependent claims also add limitations that further distinguish over the references, and Applicant reserves the right to argue further for the patentability of these claims.

### Claims 41 and 42

Each of these claims depends from independent claim 1 and the rejections are premised on Melpignano meeting all limitations of the claim 1. For reasons given above, Melpignano does not meet all limitations of claim 1. Babbar does not teach or suggest limitations not met by Melpignano and accordingly the references, even if combined, would not teach or suggest all limitations of any of the claims. However, the dependent claims recite limitations that further distinguish from Melpignano, providing additional reasons that the claims should be allowed.

### New Claims 45-47

Claims 45-47 are added to further define Applicant's contribution to the art. The claims depend, directly or indirectly from claim 1, and should be allowed at least based on their dependency. In addition, these claims each recite further limitations on the scanning engine recited in claim 1. Because the cited references do not disclose a scanning engine at all, these limitations added and these claims further distinguish over the prior art and provide additional reasons the claims should be allowed.

**CONCLUSION**

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, the Director is hereby authorized to charge any deficiency or credit any overpayment in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 23/2825, under Docket No. M1103.70193US00.

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Respectfully submitted,

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